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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
National Exchange Carrier) RM 7736
Association, Inc. Request)
for Rule Change Concerning)
the Composition of its)
Board of Directors)

SOUTHWESTERN BELL TELEPHONE COMPANY'S
REPLY COMMENTS

Southwestern Bell Telephone Company (SWBT) submits this reply to comments filed by various parties concerning the National Exchange Carrier Association, Inc.'s (NECA) petition for rulemaking to amend 47 C.F.R. Section 69.602 to add two outside directors to the NECA board effective January 1, 1992.

I. OUTSIDE DIRECTORS SHOULD NOT INCLUDE INDIVIDUALS WITH INTERESTS ADVERSE TO NECA OR ITS MEMBERS.

SWBT believes that the allegations that NECA has improperly or unlawfully performed its fiduciary and legal obligations are groundless.¹ However, if the Commission

¹Contrary to the representation of the National Association of Regulatory Utility Commissioners (NARUC) the Commission has made no determination of "improper activities" nor has there been a final determination of "manipulative and erroneous reporting." The tentative conclusions reached in the Commission's November 9, 1990 Notice of Apparent Liability were merely allegations which have been vehemently denied. Moreover, under the Communications Act, reference may not be made even to a final Commission determination of liability and forfeiture unless the forfeiture has been paid or enforced in U.S.
(Footnote Continued)

decides to expand NECA's board to include outside directors, the new rules should not expand candidate eligibility to those with interests adverse to those of NECA or its members, or to individuals lacking the skill and experience needed to carry out the required fiduciary responsibilities.

SWBT concurs with the United States Telephone Association (USTA) and the National Telephone Cooperative Association (NTCA) that NECA's request for authority to add two outside directors should not be interpreted as a request or a requirement to change the Commission's policy against placing on the board individuals with interests antagonistic to those of exchange carriers.² In originally establishing NECA, the Commission determined that NECA's board should be limited to exchange carrier representatives. Determining that expanding membership to include adverse groups would be "unwise," the Commission rejected such suggestions:

We have also decided not to accept suggestions that state commissions, interexchange carriers or consumers be represented on the governing board of the association. As we stated in the Fourth Supplemental Notice," the Communications Act already provides safeguards adequate to protect the interests of these groups in the fair, evenhanded implementation of any access charge plan we might adopt."³

(Footnote Continued)

District Court. 47 U.S.C. Section 504(c). Neither event has occurred here. Accordingly, these improper references must be stricken.

²See, comments filed in RM 7736 on July 10, 1991 by USTA at pp. 3-4, and by NTCA at pp. 2-5.

³MTS and WATS Market Structure, CC Docket 78-72, 93 FCC 2d 241, 335-36, released February 28, 1983.

As NTCA observed, the Commission, in limiting NECA board membership to exchange carriers, implicitly recognized that a board consisting of exchange carriers would best carry out the fiduciary duties of filing tariffs and administering the pools for the exchange carriers. This limitation, with the apportionment of board membership among the various carrier subsets, has permitted NECA to perform its duties without needless internal board conflict. Introducing such conflict now by the addition of antagonistic board members will impair the efficiency of NECA's operations and disserve consumers and the public interest.

II. CONCLUSION

If the Commission decides to expand NECA's board

CERTIFICATE OF SERVICE

I, Liz Jensen, hereby certify that the foregoing
"Southwestern Bell Telephone Company's Reply Comments" in Docket
RM 7736 has been served this 25th day of July, 1991 to the
Parties of Record.

Liz Jensen

Liz Jensen

July 25, 1991

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